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RUEHBY/AMEMBASSY CANBERRA 7340  
RUEHLO/AMEMBASSY LONDON 1363  
RUEHKO/AMEMBASSY TOKYO 9447  
RUEHWL/AMEMBASSY WELLINGTON 1790  
RUEHCHI/AMCONSUL CHIANG MAI 3740  
RHEFDIA/DIA WASHDC  
RUEAIIA/CIA WASHINGTON DC  
RHEHNSC/NSC WASHDC  
RUEKJCS/JCS WASHDC  
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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 003530

SIPDIS

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E.O. 12958: DECL: 06/26/2017

TAGS: PREL PGOV PHUM KDEM KJUS ASEC TH UK

SUBJECT: THAKSIN TO REMAIN ABROAD, FIGHT EXTRADITION

REF: A. BANGKOK 3276 (ASSETS FROZEN)  
1B. BANGKOK 1492 (THAKSIN BIDING TIME)  
1C. 06 BANGKOK 7594 (BUILDING A CASE)  
1D. 06 BANGKOK 5228 (NO CLARITY ON CAR BOMB)

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Classified By: Ambassador Ralph L. Boyce, reason 1.4 (b) and (d).

SUMMARY

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11. (C) Deposed Prime Minister Thaksin Shinawatra intends to remain abroad, based in the United Kingdom, and fight any upcoming extradition request. According to his lawyer, Noppadol Pattama, Thaksin, who faces corruption charges and investigation for other offenses, cannot receive a fair trial in the current political environment. Thaksin has not yet decided to seek political asylum, however. Noppadol told us Thaksin's physical safety would be in jeopardy if he returns to Thailand, but he claimed he had no specific threat information. Thaksin's wife, Potjaman, will also remain abroad. RTG officials, who have claimed to be preparing for Thaksin's return, may believe Thaksin will be discredited publicly for failing to return home to face charges. However, because Thaksin cannot be prosecuted in absentia, he will avoid legal sanction so long as he remains abroad. End Summary.

CHARGES AGAINST THAKSIN

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12. (SBU) In recent months, the authorities have made substantial progress in developing legal cases against Thaksin:

- Thaksin and his wife have been charged with corruption in relation to Potjaman's purchase of land from the Financial Institutions Development Fund. Prosecutors have filed charges with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions, and a panel of nine judges has been selected to hear preliminary arguments in the case.

- The Justice Ministry's Department of Special Investigations (DSI) has issued a summons for Thaksin to meet with DSI

investigators no later than June 29 to discuss allegations that he concealed assets prior to becoming Prime Minister.

- Thaksin's wife faces criminal charges of tax evasion relating to transfers of corporate shares between herself and her step-brother, Bannapot Damapong, in 1997.

- The Asset Examination Commission (AEC) has also issued an order freezing all Thaksin's immediate family's assets (ref A), pending investigation of his allegedly unusual wealth and possible improprieties relating to his sale of the Shin Corporation to Singaporean investment firm Temasek.

- Additionally, the AEC continues to investigate numerous government decisions taken during Thaksin's administration, including procurement, lending, and revenue-sharing initiatives.

LAWYER SAYS THAKSIN WON'T RETURN

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¶3. (C) We met on June 26 with Thaksin's lead lawyer, Noppadol Pattama, to discuss Thaksin's predicament. Noppadol told us he would hold a press conference soon after our meeting to announce that Thaksin's legal team was recommending against Thaksin's return to Thailand. (He did hold this press conference, and as of the afternoon some local online media have reported on it.) Noppadol presented four reasons for this recommendation:

- Thailand is currently under a dictatorial regime;
- Thaksin cannot receive due process or a fair trial in the current environment;
- Thaksin's physical safety would be in jeopardy if he

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returns; and

- Thaksin wants to promote reconciliation in Thailand, and he worries his return would prove divisive.

¶4. (C) When we asked Noppadol to substantiate his claims that Thaksin could not receive due process in Thailand, he first observed that the AEC -- the body which has the lead in investigating and preparing cases against Thaksin -- was a new institution established by the leaders of an illegitimate coup. The AEC has been stacked with figures prejudicial toward Thaksin, and Thaksin's legal team has not been allowed to challenge their objectivity, as would be the case with judicial officials. Noppadol further claimed that the nine judges in the corrupt land purchase case (elected to this panel by secret ballot by all 84 Supreme Court Justices) were vehemently anti-Thaksin, as shown by previous cases they had handled and the opinions Thaksin's team knew they held. An adversarial verdict against Thaksin and his wife was assured, Noppadol told us, and he noted the couple could face financial losses and a term of imprisonment, with no legal avenue for appeal.

¶5. (C) Noppadol also insisted the corrupt land purchase charges lacked merit. In that transaction, Potjaman bought the land plot in a public auction, under her own name, for more than the assessed value of the land. Although she bought the land from the Financial Institutions Development Fund (FIDF), a state agency, then-Prime Minister Thaksin had no legal authority over the FIDF. Even after the coup, the FIDF and the Bank of Thailand informed the AEC that the state had suffered no damages from the transaction, Noppadol stressed.

¶6. (C) The AEC's decision to freeze all Thaksin's assets was similarly unjust, Noppadol said. Noppadol said he could document that Thaksin had over 1 billion USD in assets before becoming Prime Minister; the AEC had no basis for freezing

assets acquired prior to Thaksin's election as Prime Minister. The AEC had taken this step because of rumors that Thaksin was funding anti-coup protests in Bangkok, Noppadol said. Thaksin's lawyers would seek a lifting of the freeze in civil court, file malfeasance against the AEC in criminal court, and also appeal directly to the AEC to rescind its order.

¶17. (C) When asked to clarify his concerns for Thaksin's physical safety, Noppadol said that RTG officials were unusually slow in prosecuting suspects who allegedly planted a car bomb near Thaksin's residence in August 2006. This foot-dragging signaled a tolerance for anti-Thaksin plots. Noppadol said that in Thailand, "anything can happen." He cited the 1983 assassination in Manila of Senator Ninoy Aquino as an example of what Thaksin feared. Noppadol said he had heard unspecified rumors, but he admitted that none of these rose to the level of "intelligence" about threats to Thaksin's safety. (Note: Ref D notes widespread doubts about the alleged assassination attempt last August. End Note.)

READY TO FIGHT EXTRADITION

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¶18. (C) Noppadol admitted that Thaksin's defiance of the DSI summons would likely result in an extradition request from the RTG to the British government. (Noppadol said his team had not yet decided whether to seek a delay for Thaksin's appearance, as customarily can be done. He did not want to appear to be stalling, however, given the determination that Thaksin should not return under the current regime.) He said that Thaksin was in the process of recruiting a British legal team to assist in fending off extradition. When asked whether Thaksin would request political asylum, he said that Thaksin hoped this would not be necessary. He cited the case of Thai banker Pin Chakkaphak, who remained in the UK and avoided extradition without requesting asylum. Thai law does not allow prosecution in absentia, Noppadol explained, so as long as Thaksin remains abroad, the cases against him will remain pending.

¶19. (C) Noppadol said that Thaksin's upcoming purchase of the

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Manchester City soccer team would enhance his international status and also might provide him with an investment-based entitlement to reside legally (indefinitely) in the UK. Potjaman, currently outside of Thailand, would also remain abroad, Noppadol said. He added that Thaksin's adult children have yet to be ordered to pay back taxes on controversial transactions (ref C), as the Revenue Department has been unable to determine their tax liability.

COMMENT

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¶10. (C) The authorities have recently expressed publicly a desire to have Thaksin come back to Thailand. Although his return would have excited his supporters, it also, in the likely event of his incarceration, would have enabled the authorities to change his image from that of a defiant, globe-trotting exile to that of a defendant in criminal proceedings.

¶11. (C) It is remarkable that an administration installed by a military coup, allegedly inspired by Thaksin's corruption, took so long to freeze his assets and prepare charges against him. The authorities appear to have proceeded cautiously in preparing their cases; perhaps they were hampered because Thaksin had ensured legal cover for the traceable activities from which he profited while in office. We are not prepared to agree with Noppadol that Thaksin cannot receive due process in Thailand. Any trial would probably go on for months, concluding long after the Council for National Security leaves the scene. But the political pressure to ensure his conviction would be enormous, and the coup

leaders, having seized power through extra-constitutional means, have little credibility to assure that they will not interfere with judicial processes involving the man they deposed.

BOYCE